REMARKS

By the present amendment, claims 15 and 28-39 are pending in the application. All the pending claims are directed to elected Group II , a process for producing methanol and a catalyst for preparing methanol.

Allowable Subject Matter

The applicants are pleased to note that the Office Action advises at page 3 that independent claims 15 and 28 are allowable.

Support For Claims

Support for new claims 29-39 of the present amendment is as follows.

Claims 29 & 30

New independent claims 29 and 30 correspond to prior independent claims 13 and 14 with the "alkaline earth metal-type catalyst" further defined as --other than an alkaline metal alkoxide--. This is supported in prior claims 13 and 14 wherein the alkali metal-type catalyst is defined as other than an alkali metal alkoxide.

Claims 31-33

New dependent claims 31-33 correspond to prior dependent claims 17-19 with new dependent claims 32 and 33 defining the "alkaline earth metal-type catalyst" as --other than an alkaline metal alkoxide--.

Claims 34-35

New dependent claims 34 and 35 correspond to prior dependent claims 20 and 21 with the "alkaline earth metal-type catalyst" defined as --other than an alkaline metal alkoxide--.

Claims 36-38

New dependent claims 36 to 38 correspond to prior dependent claims 23-25.

Claim 39

Claim 39 corresponds to prior claim 27 with the added limitation --other than an alkaline metal alkoxide--.

Restriction Requirement

Applicants affirm the election of the claims of Group II directed to a process for producing methanol and a catalyst for preparing methanol. All of the pending claims of the present amendment are directed to a process for producing methanol or a catalyst for preparing methanol.

The non-elected claims have been canceled without prejudice to the filing of divisional application(s) directed to the non-elected claims.

Priority

The Office Action takes the position that the statement "This Application is a 371 of PCT/JP01/01386 filed 2/23/2001." should be entered following the title of the invention.

The applicants respectfully disagree with this position taken by the Office.

The Manual of Patent Examining Procedure at M.P.E.P. §1893.03(c) at page 1800-156, Eight Edition, Revision 1, February, 2003, makes clear that for a 35 U.S.C. §371 national stage application, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number. This is because the international application is not an earlier application (it has the same filing date as the national stage because the national stage has the filing date of the international application) and thus a benefit claim to the filing date in the national stage to the international application is inappropriate.

A copy of page 1800-156 of M.P.E.P., Eight Edition, Revision 1, February, 2003, is attached hereto.

It is therefore respectfully requested that the requirement to amend the specification to make reference to the PCT international application be withdrawn.

Claim Objections

Claims 17-21 and 23-25 were objected to because they depend from claims that were previously canceled.

By the present amendment, claims 17-21 and 23-25 have been canceled. Therefore, the objection to these claims is now moot.

It is believed that all the presently pending dependent claims have proper dependencies.

It is therefore respectfully requested that the objection to the claims be withdrawn.

§102

Claims 13, 14 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,888,361 to Sie et al.

By the present amendment, claims 13, 14 and 17 have been canceled.

This rejection, as applied to new claims 29-39, is respectfully traversed.

Patentability

Sie et al. (US 4,881,361) cited by the Office Action discloses using, as a catalyst for the production of methanol, an alkaline earth metal-type catalyst. However, Sie et al. does not disclose or suggest using an alkaline earth metal-type catalyst other than an alkaline metal alkoxide, as in new independent claims 29, 30 and 39 of the application. Thus, the invention defined by independent claims 29, 30 and 39 of the present amendment is not disclosed or suggested by Sie et al.

It is therefore submitted that new independent claims 29, 30 and 39, all claims dependent thereon, are patentable over U.S. Patent No. 4,888,361 to Sie et al.

CONCLUSION

It is submitted that in view of the present amendment and foregoing remarks, the application is now in condition for allowance. It is therefore respectfully requested that the present amendment be entered and the application, as amended, be allowed and passed for issue.

Respectfully submitted,

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on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior-filed application<. This time period is not extendable >and failure to timely submit the required reference to the earlier application will be considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. See 37 CFR 1.78(a)(2)(ii). However, if the entire delay, between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed, was unintentional, a petition under 37 CFR 1.78(a)(3) may be filed to accept the delayed claim.<

A prior filed nonprovisional application is copending with the national stage application if the prior U.S. national application was pending on the international filing date of the national stage application.

A prior international application designating the United States of America is copending with the national stage application if the prior international application was not abandoned or withdrawn on the international filing date of international application "X."

Note: a national stage application *>submitted< under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a *>benefit< claim in the national stage to the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage **.

For a comparison with 35 U.S.C. 120 *>benefit< claims in a national application filed under 35 U.S.C. 111(a), see MPEP § 1895.

1893.03(d) Unity of Invention [R-1]

37 CFR 1.499. Unity of invention during the national stage

If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under §§ 1.143 and 1.144.

PCT Rule 13 was amended effective July 1, 1992. 37 CFR 1.475 was amended effective May 1, 1993 to correspond to PCT Rule 13.

Examiners are reminded that unity of invention (not restriction) practice is applicable in international applications (both Chapter I and II) and in national stage ** applications >submitted under 35 U.S.C. 371<. Restriction practice continues to apply to U.S. national applications filed under 35 U.S.C. 111(a) >, even if the application filed under 35 U.S.C. 111(a) claims priority to an earlier international application or to an earlier U.S. national stage application submitted under 35 U.S.C. 371.<

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

The principles of unity of invention are used to determine the types of claimed subject matter and the combinations of claims to different categories of invention that are permitted to be included in a single international or national stage patent application. The basic principle is that an application should relate to only one invention or, if there is more than one invention, that applicant would have a right to include in a single application only those inventions which are so linked as to form a single general inventive concept.

A group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art. For example, a corresponding technical feature is exemplified by a key defined by certain claimed structural characteristics which correspond to the claimed features of a lock to be used with the claimed key. Note also examples 1-17 of Annex B Part 2 of the PCT Administrative Instructions as amended July 1, 1992 contained in Appendix AI of the MPEP.